

## **IC 31-37-11**

### **Chapter 11. Time Limits for Petitions; Motions for Continuance**

#### **IC 31-37-11-1**

##### **Time for filing petition alleging delinquency of child in detention**

Sec. 1. If a child is in detention, a petition alleging delinquency must be filed not later than seven (7) days, excluding Saturdays, Sundays, and legal holidays, after the child is taken into custody.

*As added by P.L.1-1997, SEC.20.*

#### **IC 31-37-11-2**

##### **Time for factfinding hearing or waiver hearing**

Sec. 2. (a) If:

- (1) a child is in detention; and
- (2) a petition has been filed;

a fact-finding hearing or a waiver hearing must be commenced not later than twenty (20) days, excluding Saturdays, Sundays, and legal holidays, after the petition is filed.

(b) If:

- (1) a child is not in detention; and
- (2) a petition has been filed;

the hearing must be commenced not later than sixty (60) days, excluding Saturdays, Sundays, and legal holidays, after the petition is filed.

(c) A child who is ordered detained in the home of the child's parent, guardian, or custodian or who is subject to other conditions of release under IC 31-37-6-6 may not be considered as being detained for purposes of this section.

*As added by P.L.1-1997, SEC.20. Amended by P.L.188-1999, SEC.3.*

#### **IC 31-37-11-3**

##### **Waiver denied; time for factfinding hearing**

Sec. 3. If waiver is denied, the factfinding hearing must be commenced not later than ten (10) days, excluding Saturdays, Sundays, and legal holidays, after the denial.

*As added by P.L.1-1997, SEC.20.*

#### **IC 31-37-11-4**

##### **Waiver granted; computation of time**

Sec. 4. If waiver is granted, the computation of time under Criminal Rule 4 commences on the date of the waiver order.

*As added by P.L.1-1997, SEC.20.*

#### **IC 31-37-11-5**

##### **Answer to petition alleging delinquency exceeding one year in aggregate**

Sec. 5. A child may not be required to answer a petition alleging that the child is a delinquent child for more than one (1) year in aggregate.

*As added by P.L.1-1997, SEC.20.*

### **IC 31-37-11-6**

#### **Effect of continuances and actions of child on computation of time**

Sec. 6. Times specified in sections 2 and 3 of this chapter shall be computed excluding delays resulting from any of the following:

- (1) Continuances granted on the child's motion.
- (2) The actions of the child.
- (3) Congestion of the court calendar if the prosecuting attorney moves for a continuance not later than three (3) days before the hearing, except that a motion may be filed less than three (3) days before the hearing if the prosecuting attorney shows that the delay was not the fault of the state.

*As added by P.L.1-1997, SEC.20.*

### **IC 31-37-11-7**

#### **Release for noncompliance with time limits**

Sec. 7. If:

- (1) a child is in detention; and
- (2) the times in sections 1, 2, and 3 of this chapter are not followed;

the child shall be released on the child's own recognizance or to the child's parents, guardian, or custodian.

*As added by P.L.1-1997, SEC.20.*

### **IC 31-37-11-8**

#### **Prosecuting attorney's motion for continuance because of absence of witness**

Sec. 8. (a) If a child moves for discharge, the prosecuting attorney may move for a continuance of the factfinding hearing or waiver hearing because of the absence of a witness if the prosecuting attorney makes an official statement:

- (1) setting forth the name and address of the witness if known;
- (2) indicating the probability of procuring the witness's testimony within a reasonable time;
- (3) showing that the absence of the witness has not been procured by the act of the prosecuting attorney;
- (4) stating the facts to which the prosecuting attorney believes the witness will testify and the prosecuting attorney's belief that the facts are true; and
- (5) stating that the prosecuting attorney is unable to prove the facts specified under subdivision (4) through the use of any other witness whose testimony may be as readily procured.

(b) Upon the child's request, the court shall order that the prosecuting attorney's motion and official statement be made in writing.

*As added by P.L.1-1997, SEC.20.*

### **IC 31-37-11-9**

#### **Order for continuance; grounds; discharge for failure to timely commence hearing**

Sec. 9. (a) Upon a motion for a continuance under section 8 of this

chapter, the court may continue the factfinding hearing or the waiver hearing for not more than ninety (90) days. However, the hearing may not be continued if, after the prosecuting attorney moves for the continuance as the result of:

(1) a witness's absence, the child admits that the absent witness would testify to the facts alleged in the prosecuting attorney's official statement; or

(2) the unavailability of written or documentary evidence, the child admits that the written or documentary evidence exists.

(b) If the hearing is not commenced within the ninety (90) day period required by this section, the court shall discharge the child.

*As added by P.L.1-1997, SEC.20.*

#### **IC 31-37-11-10**

##### **Child causing delay; extension of time period**

Sec. 10. (a) Except as provided in subsection (b), if:

(1) a continuance is granted on a child's motion; or

(2) the proceedings are delayed by a child's act;

a time period is extended by the amount of the resulting delay.

(b) If a child causes a delay during the last thirty (30) days of a time period, the state may petition the court for an additional thirty (30) day extension.

*As added by P.L.1-1997, SEC.20.*